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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,267	06/27/2001	Shuji Shimizu	SON-2147	1629

23353 7590 06/28/2005

RADER FISHMAN & GRAUER PLLC  
LION BUILDING  
1233 20TH STREET N.W., SUITE 501  
WASHINGTON, DC 20036

EXAMINER
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VIEAUX, GARY

ART UNIT	PAPER NUMBER
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2612

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No. 09/891,267	Applicant(s) SHIMIZU, SHUJI	
Examiner Gary C. Vieaux	Art Unit 2612	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 June 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.

6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

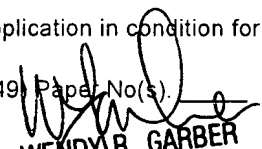
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Page No(s) \_\_\_\_\_.

13. ☐ Other: \_\_\_\_\_.

  
WENDY R. GARBER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

Continuation of 11. does NOT place the application in condition for allowance because:

In addition to arguments previously presented and responded to in the Final Office Action of April 7, 2004, Applicant also alleges that the Takahashi reference does not disclose, teach, or suggest that the direction in which the camera captures the image is a factor in exposure control (Remarks, p. 3-4.) The Examiner respectfully disagrees.

Of the several limitations Takahashi provides, one is a teaching of photographic modes, including center-weighted (fig. 4 and 7) and landscape (fig. 8), in conjunction with exposure adjustment as illustrated in fig. 10, step S2 (col. 9 lines 37-65.) As provided in the Office Actions of both August 12, 2004 and April 7, 2005, "One of ordinary skill in the art at the time the invention was made would be motivated to arrange this combination in order to provide an image pickup device capable of exposure control which can follow the phototaking situation in a natural manner ('462 col. 2 lines 27-31), regardless of orientation (photographing direction) to the front or rear of the screen of the electronic apparatus." (p. 4 and p. 8, respectively), and as further clarified on page 8 of the Office Action of April 7, 2004, "It is also noted that Takahashi does teach photographing modes, wherein, the modes determine how the exposure adjusting means adjust the exposure of the electronic camera on the basis of the resulting exposure detection information (col. 9 lines 37-65.) These modes relate to "center-weighted" (second pattern) for when there is a high probability of the main object being positioned in the central area of the image frame (col. 5 lines 22-33) and "landscape" (first pattern) for when the sky and ground are generally included in the frame at the same time (col. 8 lines 8-26.)"

Additionally, the Applicant alleges the Fullam reference fails to disclose, teach, or suggest at least that when said photographing direction detecting means outputs said direction detection signal, said exposure adjusting means adjusts the exposure of the electronic camera based on said first exposure detection information, and when the photographing direction detecting means does not output a direction detection signal, the exposure adjusting means adjusts the exposure of the electronic camera based on said second exposure detection information (Remarks, p. 4), as well as alleges that McNelley, Takahashi and Fullam either singly or combined fail to disclose, teach, or suggest at least that when said photographing direction detecting means outputs said direction detection signal, said exposure adjusting means adjusts the exposure of the electronic camera based on said first exposure detection information, and when the photographing direction detecting means does not output a direction detection signal, the exposure adjusting means adjusts the exposure of the electronic camera based on said second exposure detection information (Remarks, p. 5.) The Examiner respectfully disagrees.

As previously indicated in the Office Action of April 7, 2005, the Fullam reference provides a teaching of a device for controlling an exposure of an electronic camera, the camera being capable of setting a photographic direction ('291 - col. 2 lines 21-23; Office Action of April 7, 2005 - p. 9 lines 3-4; Office Action of August 12, 2004 - p. 5 lines 16-17), with indications regarding limitations and motivation for combination as provided in the Office Action of April 7, 2005 at page 5 lines 1 through 10 and page 9 line 6 through page 11 line 9 and Office Action of August 12, 2004 at page 6 line 19 through page 7 line 2.

Based on the foregoing, The Examiner stands behind the rejections of the Office Actions of August 12, 2004 and April 7, 2005, as well as claims 2-13, from which dependence originates.